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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,487	12/29/2000	Ann C. Guilford	2000-0615	4140

32943 7590 07/12/2005

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EXAMINER	
WILLETT, STEPHAN F	

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/752,487	GUILFORD ET AL.	
	Examiner	Art Unit	
	Stephan F. Willett	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 May 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-14,36-49,84 and 85* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7, 9-14, 36-49, 84-85* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 37, 46 is/are objected to because of the following informalities: The meaning of the horizontal line and vertical lines to the right are inappropriate. Appropriate correction is required.

Claim Rejections - 35 USC 102

1. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7, 9-14, 36-49, 84-85 are rejected under 35 U.S.C. 102(e) as being anticipated by Dunn et al. with Patent Number 6,591,103.

3. Regarding claim(s) 1, 36, 46, 84-85, Dunn teaches determining a requested service associated with the wireless device as services with parameters such as "AMP, CDMA and TDMA", among others, col. 5, lines 17-23 and a "visitor register", col. 3, line 33. Dunn teaches determining whether one of the wireless networks can provide a requested service, col. 5, lines 61-64. Dunn teaches if a wireless network can provide the requested service choosing said network, col. 5, lines 64-68 and establishing a parallel session as "continue the call", col. 5, line 65 and "continue to move", col. 6, line 5 with a second network. Dunn teaches choosing a

network based on a table downloaded periodically, col. 8, lines 42-46; col. 10, lines 58-63 as "information" "broadcasted" during "periods", col. 10, line 40 from a home service area, col. 5, lines 27-30.

4. Regarding claim(s) 2, 37, 40-41, Dunn teaches choosing a network based on quality of service, col. 9, lines 46-48, minimum rate as "message rate", delay as "traffic congestion", col. 5, line 63.

5. Regarding claim(s) 3, 38, Dunn teaches choosing a network based on cost of service, col. 8, lines 26-29.

6. Regarding claim(s) 4, 39, Dunn teaches choosing a network based on preferred provider agreements, col. 7, lines 28-30 as predetermined "internal" data that reflects a providers agreed upon services.

7. Regarding claim(s) 5, Dunn teaches choosing a network based on network capacity as "loads", col. 11, lines 3-4.

8. Regarding claim(s) 6-7, 42-43, Dunn teaches choosing a network based on network load, col. 11, lines 3-4 presently serving the wireless device, col. 5-6, lines 64-6 or of another network, col. 6, lines 23-26, col. 7, lines 15, 17, 54-55.

9. Regarding claim(s) 9, Dunn teaches choosing a network based on a table downloaded periodically, col. 8, lines 42-46 and downloaded based on a periodic request, col. 7, lines 34-37.

10. Regarding claim(s) 10, Dunn teaches choosing a network based on updated roaming, col. 4, line 54 agreements, col. 7, lines 28-30 as predetermined "internal" data that reflects a providers agreed upon services and is updated as it is broadcast, col. 8, lines 42-46; col. 10, lines 58-63.

11. Regarding claim(s) 11, Dunn teaches table as "information database" downloading as "listens" when the device is initially turned on, col. 6, lines 3-4.

12. Regarding claim(s) 12-13, 44-45, 48-49, Dunn teaches choosing a network when the device is roaming outside, col. 4, line 54; col. 6, lines 20-21, or inside, col. 4, lines 54-55 as "one network coverage pattern" as home service area, col. 5, lines 27-30.

13. Regarding claim(s) 14, Dunn teaches choosing a network based on a table downloaded periodically, col. 8, lines 42-46; col. 10, lines 58-63 as "information" "broadcasted" during "periods", col. 10, line 40.

14. Regarding claim(s) 47, Dunn teaches choosing a network based on the strongest signal, col. 4, lines 57-58.

Response to Amendment

15. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

16. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

17. Applicant suggests ""from the wireless network" and "the home network choosing" in Paper filed 2/29/05, Page 21, lines 20-21. The above argument is not commensurate with what is presently claimed and therefore will not be considered at this time. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

18. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out

how the language of the claims patentably distinguishes them from the cited portions of the references and relevant portions of the reference.

19. Applicant suggests "Dunn does not disclose or suggest a home network", Paper filed 8/25/04, Page 21, lines 24-25 and "but not a home network', Paper filed 2/29/05, Page 23, lines 24-25. However, Dunn teaches "home location register", col. 5, line 30 and with or without a CSA, col. 8, line 37. Clearly, the CSA reads on a home networks as presently claimed. In any event, "home" is a very broad term and its relative designation changes constantly and depending how and where the term is used relative to other networks. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. The descriptions in the references are not obfuscated by the numerous other suggested usages of said description in the reference. In addition, implicitly, impliedly and inferentially, various "home networks' are taught and language identical or verbatim is not required in an obvious rejection. Note that reasonable "inferences", and "common sense" may be considered in formulating rejections for obviousness. Specifically, *In re Preda*, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968) states "in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." Also, *In re Bozek*, 416 F.2d 738, 163 USPQ 545, 549 (CCPA 1969) states that obviousness may be concluded from "common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference". Additionally, see *In re Gauerke*, 24 CCPA 725, 86 F.2d

330, 31 USPQ 330, 333 (CCPA 1936), and *In re Libby*, 45 CCPA 944, 255 F.2d 412, 118 USPQ 94, 96 (CCPA 1958), and *In re Jacoby*, 309 F.2d 738, 125 USPQ 317, 319 (CCPA 1962), and *In re Wiggins*, 488 F.2d 538, 543, 1979 USPQ 421, 424 (CCPA 1973). Thus, Applicant's arguments can not be held as persuasive regarding patentability. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571) 3272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on 571-272-4225. The fax phone number for the organization where this application or proceeding is assigned is 571-273-0044.

3. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Steve Willett

Stephan Willett

Patent Examiner

July 8, 2005